

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KELLY USANOVIC, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

AMERICANA, LLC, a Nevada company,

Defendant.

Case No. 2:23-cv-01289-RFB-EJY

ORDER

Pending before the Court is Plaintiff's Motion to Compel Compliance with Subpoena. ECF No. 41. The Court reviewed the Motion, Defendant's Response, and Plaintiff's Reply. ECF Nos. 44, 45.

There is no dispute that Plaintiff served a subpoena on third party Mladen Zoranovic to which Mr. Zoranovic failed to fully respond. Plaintiff attempted to meet and confer with Mr. Zoranovic; however, Mr. Zoranovic was uncooperative including on one occasion hanging up on Plaintiff's counsel upon counsel identifying herself. Plaintiff now seeks to compel Mr. Zoranovic's compliance and asks the Court to award attorney's fees and costs incurred in connection with bringing the Motion to Compel. Defendant responds that the Court should deny Plaintiff's Motion because Plaintiff failed to comply with Local Rule 26-6(b) and (c). In Reply, Plaintiff sets forth the content of the subpoena served on Mr. Zoranovic and attaches a declaration describing the meet and confer attempts made before filing the Motion to Compel, which same information is in the Motion.

Recognizing Plaintiff's initial error, the Court finds under the specific circumstances here the Reply satisfies the requirements of Local Rule 26-6. The Court further finds Defendant offers no other opposition to Plaintiff's Motion.

Accordingly, IT IS HEREBY ORDERED that Plaintiff's Motion to Compel Compliance with Subpoena (ECF No. 41) is GRANTED.

IT IS FURTHER ORDERED that Mladin Zoranovic **must** comply with the subpoena duces tecum served by Plaintiff no later than **April 30, 2024**. If Plaintiff does not now have and never had

documents responsive to one or more topics identified in the subpoena, he must state the same in a declaration under penalty of perjury served together with the response to the subpoena.

IT IS FURTHER ORDERED that Plaintiff is awarded reasonable fees and costs associated with preparing the Motion to Compel and Reply.

IT IS FURTHER ORDERED that Plaintiff **must**, within fourteen (14) days measured from the date of this Order, file a memorandum, supported by affidavit of counsel, establishing the amount of attorneys' fees and costs incurred in drafting its Motion, reviewing Defendant's Response, and drafting the Reply. The memorandum must provide a reasonable itemization and description of the work performed, identify the attorney(s) or staff member(s) performing the work, the customary fee of the attorney(s) or staff member(s) for such work, and the experience, reputation and ability of the attorney performing the work. The attorney's affidavit must authenticate the information contained in the memorandum, provide a statement that the bill has been reviewed and edited, and a statement that the fees and costs charged are reasonable.

IT IS FURTHER ORDERED that Mr. Zoranovic will have seven (7) days from service of the memorandum of attorneys' fees and costs to file a responsive memorandum addressing the reasonableness of the fees and costs sought, and any equitable considerations deemed appropriate for the Court to consider in determining the amount of fees and costs which should be awarded.

Dated this 15th day of April, 2024.


ELAYNA J. YOUCHAK
UNITED STATES MAGISTRATE JUDGE